

Legislative Audit Division

State of Montana



Report to the Legislature

October 2000

Performance Audit

Juvenile Detention

Montana Board of Crime Control (MBCC)

Administrative processes and procedures initiated by MBCC and Montana counties ensure implementation of state and federal detention requirements.

This report contains recommendations for improving juvenile detention activities in the following areas:

- < The grant award process.**
- < Compliance monitoring.**
- < Management and oversight.**

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October 2000

The Legislative Audit Committee
of the Montana State Legislature

We conducted a performance audit of secure juvenile detention in Montana. According to state law, counties are responsible for providing juvenile detention services. The Montana Board of Crime Control (MBCC) is responsible for oversight of the process used to allocate state assistance funding to counties and monitoring compliance with state and federal detention requirements. The Department of Corrections (DOC) is responsible for licensing juvenile detention facilities. Judicial district youth court officials are also key participants in the process regarding the use of detention facilities. This report contains recommendations to MBCC for improving the juvenile detention funding allocation and administrative oversight process. Written response from MBCC is included at the end of the report.

We appreciate the cooperation and assistance of MBCC and DOC staff, county detention representatives, and youth court officials during the audit.

Respectfully submitted,

(Signature on File)

Scott A. Seacat
Legislative Auditor

Legislative Audit Division

Performance Audit

Juvenile Detention

Montana Board of Crime Control

Members of the audit staff involved in this audit were Tom Cooper, Angie Grove, Anthony Patch, and Mike Wingard.

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Appointed and Administrative Officials

Montana Board of Crime Control

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Donald Bjertness, Vice Chairman	Citizen at Large
Elaine Allestad	Sweet Grass Co. Commissioner
Craig Anderson	Chief Juvenile Probation Officer
Sylvia Bookout-Reinicke	State Representative
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John Flynn	Broadwater County Attorney
Laurel Frankenfield	Mayor of Hamilton
Bob Jones	Chief, Great Falls Police Department
Sherry Matteucci	U.S. Attorney
Joe Mazurek	Attorney General
Jani McCall	Consulting With Communities
Dorothy McCarter	District Court Judge
Debbie Shea	State Senator
Bill Slaughter	Sheriff, Gallatin County
Janet Stevens	Citizen at Large
Ken Stuker	Principal, Helena High School
Jean Turnage	Chief Justice, Montana Supreme Court

Jim Oppedahl, Executive Director

Youth Justice Council

Jani McCall, Chair

Introduction

The Legislative Audit Committee requested a performance audit of juvenile detention activities in Montana. Title 41, chapter 5, parts 18 and 19, MCA, make counties responsible for detention and provide for state funding assistance. For the 2000-2001 biennium, the legislature appropriated \$1.1 million to assist counties with the cost of juvenile detention. Audit work focused on the allocation and use of the appropriation administered by the Montana Board of Crime Control (MBCC).

Montana Counties Responsible for Detention

According to section 41-5-1803, MCA, counties are responsible for providing juvenile detention services separate from adults. Counties may use holdover facilities (nonsecure), short-term secure detention (not to exceed 10 days), or a secure youth detention facility (long-term) to meet detention needs. Statute allows counties to contract with private service providers, operate their own facility, participate in a regional operation, or contract with another county. Two or more counties may establish a juvenile detention region; law allows five state detention regions. Counties may issue general obligation bonds for acquisition, purchase, or construction of a facility. To pay the county share of the cost of equipping, operating, or maintaining detention facilities, counties may also levy taxes.

Daily Rate Influenced by Several Factors

Facilities charge a daily rate or price for juveniles held in detention. We found the cost of operations is the primary factor considered in rate determination. However, other factors also influence daily rates: estimated occupancy rate, detention “market”, and available sources of revenue. During our audit, daily rates ranged from \$130 to \$240 per day.

Community Use of Detention Varies

Officials indicated the Youth Court Act provides flexibility allowing communities to determine how “hard” they want to be on juvenile crime. Secure detention is one tool allowing flexibility. According to many county and court officials, communities choose to bear the detention facility cost burden (with state assistance) when it is a tool they decide to employ. We found detention use varies from community to community and is influenced by factors such as facility availability, daily rates, cost of transportation, community awareness, availability of alternatives, and juvenile population.

Report Summary

Legislature Provides Detention Funding Assistance

State law directs MBCC to provide grants, within the limits of available funding, to assist counties in establishing and operating detention services. Legislation includes a statement of intent, indicating state funding is provided for alternatives to secure detention, and for cost sharing to prevent excessive utilization and hold down costs. Within the five regions, counties jointly develop a regional plan to project detention usage. MBCC staff provide target state allocations based on juvenile populations in the five regions. Regions submit grant applications to MBCC. To qualify for grants, counties must be in compliance with Youth Court Act detention requirements.

Region Funding Versus State Share

For fiscal years 1997-98 and 1998-99, General Fund appropriations for grant awards to counties was approximately \$834,000. The state share of the total cost of juvenile detention for fiscal year 1997-98 was 52.2 percent; for fiscal year 1998-99 it was 36.7 percent. The 1999 Legislature approved an additional \$300,000 for fiscal years 1999-00 and 2000-01, making the total available for cost-share grants \$1,134,942. The state share for fiscal year 1999-00 was projected to cover approximately 38 percent of total costs.

Conclusion: Legislative Intent Is Met

We determined the intent of the law was to establish a process to provide a funding incentive to ensure counties implement state and federal detention requirements. We conclude the administrative processes and procedures initiated by MBCC and Montana counties ensure implementation.

Expenditure Reporting and Quarterly Disbursement

Quarterly, regions submit a detention expenditure report showing detention usage and costs from counties within the region. MBCC staff review expenditure information and transfer funding to regions to cover the authorized state share of detention costs. We found reports are not consistent between regions. The report is time-consuming to prepare and does not provide facilities with useful information. MBCC staff also indicated report review is time-consuming and provides limited monitoring value. Staff indicated expenditure reports update the region/county share of costs and occasionally highlight a questionable expenditure.

Simplify Expenditure Reporting

Region detention grant language requires counties to retain expenditure documentation which can be audited under the local government audit provisions of Montana law. Other state programs significantly reduced their expenditure reporting effort by reducing the amount of documentation submitted. We recommend simplifying the expenditure report by developing a summary the regions would provide to MBCC on a quarterly basis.

Verification of Compliance Monitoring

Section 41-5-1903, MCA, requires MBCC to monitor compliance with the Youth Court Act concerning juvenile detention. MBCC reviews compliance reports submitted monthly by facility administrators. Staff compare reported data to statutory criteria to identify noncompliance. However, MBCC staff do not routinely visit facilities to verify information accuracy. The law requires a probable cause hearing within 24 hours, and we identified several concerns regarding hearing documentation, including court orders which did not reflect the time of day of the hearing, unsigned court orders, and files without any hearing documentation.

MBCC Should Establish Guidelines

MBCC staff, in coordination with county and district court officials, should establish criteria for detention facility staff indicating specific requirements to verify compliance with state and federal criteria. Further, MBCC should seek revision of statute as necessary to assure compliance. MBCC staff should visit facilities to verify documentation is maintained.

Nonsecure Detention Incentive

Section 41-5-1904, MCA, allows MBCC to award grants to eligible counties not to exceed 50 percent of estimated costs for secure detention and not to exceed 75 percent for nonsecure detention. The 1991 statute includes a statement of intent which indicates the legislature wanted to discourage the use of secure detention and to promote less costly, nonsecure community-based programs. According to MBCC data, two to four percent of detention expenditures are used annually for nonsecure alternatives.

We found the consensus among detention facility officials was the nonsecure incentive did not work. The incentive favors use of secure detention, because 50 percent of a \$150 daily rate is significantly

Report Summary

more than 75 percent of a nonsecure option which can be as low as \$6 per day for electronic monitoring.

Review Nonsecure Incentives Requirement

MBCC should reexamine the intent of the law to determine the need for a nonsecure incentive. Potentially, because of the growth in detention use since this requirement was included in the 1991 law, an incentive is no longer required. If the conclusion is to retain an incentive for nonsecure detention, then existing criteria should be revised to promote the nonsecure option.

State Funding Level Determination

We did not find consensus regarding state responsibility for juvenile detention costs. Response to questions about limiting the state share of funding generally resulted in discussions concerning the perceived need to “honor” the 50 percent match level addressed in statute for secure detention. County and court officials were in agreement the state should not attempt to cap the number of beds or detention facilities. According to law, counties are responsible for detention, and the consensus was local governments should retain flexibility to develop detention capabilities within the framework of the Youth Court Act.

During the 1999 Legislative Session, MBCC developed historical information on juvenile detention usage and costs to provide a basis for proposing an increase in appropriations. As a result of the growth trend from 1993 through 1998, the MBCC projection indicated a need for more beds and a funding increase. The legislature increased state funding by 40 percent for the biennium.

MBCC Should Analyze Detention Usage

We believe MBCC should expand from tracking historical expenditures to a more proactive analysis of detention usage. Analysis should include how usage impacts state and local funding and include proposals regarding the state responsibility for sharing costs with counties.

Detention Management

The state is currently involved in three juvenile detention related activities: allocation of state funding, compliance monitoring, and facility licensing. Administration of funding and compliance monitoring are functions of MBCC. Licensing is a Department of Corrections responsibility. Officials expressed a variety of concerns with the current delegation of responsibilities, ranging from too much control for licensing to not enough control over compliance. One common theme was to examine the connection between the primary activities: state funding, compliance monitoring, and licensing.

For compliance monitoring of Youth Court Act requirements, statute indicates the consequence for continued noncompliance is termination of the state grant. Some officials indicated there should be a similar link between state funding and compliance with licensure requirements; others disagreed. Since the implementation of detention requirements, there has not been a comprehensive review to decide where and how Montana juvenile detention should be administered.

MBCC Should Recommend Long-Term Structure

MBCC has the responsibility and authority to evaluate the current delegation of responsibilities for detention oversight, consider alternatives, and propose changes as necessary. MBCC, in conjunction with counties, district courts, and other state agencies, should develop a recommendation for juvenile detention oversight in Montana.

Chapter I - Introduction

Introduction

The Legislative Audit Committee (LAC) requested a performance audit of juvenile detention activities in Montana. Title 41, chapter 5, parts 18 and 19, MCA, make counties responsible for detention and provide for state funding assistance. For the 2000-01 biennium, the legislature appropriated \$1.1 million to assist counties with the cost of juvenile detention. For this performance audit, we examined the process used by the Montana Board of Crime Control (MBCC) and Montana counties to establish detention budgets, submit and review grant applications, allocate available state funding, and monitor compliance with state and federal detention requirements.

Audit Objectives

In addition to providing the legislature information about juvenile detention in Montana, we developed the following audit objectives:

- < Does the detention grant review and allocation process reflect the intent of statute?
- < Does the MBCC detention compliance monitoring process ensure compliance with the Youth Court Act?
- < Should the legislature limit or cap state-funded juvenile detention capacity?
- < Is current delegation of responsibilities appropriate for Montana juvenile detention activities?

Audit Scope

Based on concerns expressed by LAC members, audit work focused on the allocation and use of the \$1.1 million legislative appropriation for juvenile detention. We reviewed statutes and available intent language to determine an overall legislative intent. We examined facility operating costs and reviewed county versus state costs for detention services.

To understand and describe detention facility use, we examined case files of juveniles held in detention, distinguishing between pre-adjudication, post-adjudication, and disposition youth. We also reviewed information regarding types of crimes committed by juveniles who are subsequently held in detention facilities, identifying probation violations, status offenses, misdemeanors, and felonies.

Chapter I - Introduction

To verify compliance monitoring status, we compiled information on whether juveniles participated in a probable cause hearing within 24 hours of placement in a detention facility as required by state law and if status offenders were held in detention facilities.

Audit Scope Exclusions

We excluded the Department of Corrections (DOC) detention facility licensing process, because the Administrative Rules of Montana (ARM) for licensing were rewritten in 1999 and the department was in the first annual facility licensing cycle using the revised criteria. We also excluded juvenile detention facility staff training, because the 1999 Legislature established a pilot project to develop an alternative training course; this process was underway at the time of our audit work.

Audit Methodologies

We reviewed the Montana Youth Court Act, focusing on county and regional detention responsibilities and the MBCC grant allocation process. We also reviewed ARMs relating to budget preparation, grant award, and funding allocation.

We interviewed MBCC staff to identify program activities, responsibilities, and processes and procedures regarding budget development, grant review and award, and funding allocation. We also discussed the growth of detention capability and the impact of a potential cap on detention funding or number of detention beds.

To determine if documentation supports the process described by staff, we reviewed MBCC grant award files and quarterly expenditure reports. We examined available MBCC data regarding juvenile crime, detention usage, bed availability, length of stay, and county versus state costs.

We interviewed DOC staff to identify licensing requirements which impact facility operating costs. We discussed regional and county detention facility use with department juvenile parole officers.

We interviewed detention center officials and compiled facility information on the number of beds, occupancy rates, length of stay, provision of services such as education, medical, counseling, food,

and recreation, staffing, operating costs/daily rates, and sources of revenue.

To examine how detention centers are used and to identify alternatives such as home arrest, electronic monitoring, trackers, and other diversion programs, we interviewed district court juvenile probation officers. Our sample included the seven court districts in counties operating detention facilities and seven districts which do not have local access to a secure facility. We interviewed a sample of district court judges regarding legislative intent and detention availability and use.

In conjunction with visits to seven detention facilities, we reviewed a sample of 100 juvenile detention files, comparing file information to monthly compliance reports submitted to MBCC by facility administrators. We also used the file review to identify felony/misdemeanor, status offender, pre-/post-adjudication, or disposition information.

We observed portions of the fiscal year 2000-01 budget review and grant allocation process to describe and assess efficiency and effectiveness. We attended Juvenile Detention Task Force, Youth Justice Council, and MBCC meetings to observe detention related activities/discussions.

Management Memorandum

During the audit, we noted minor issues relative to other issues identified in this report. We presented informal recommendations to MBCC, which if adopted could improve detention center operations. We sent MBCC a management memorandum on:

Juvenile Detention Records Management. Detention facility administrators establish and maintain a file for youth held in their facilities. File documentation covers intake and release, education and medical screening, observations and disciplinary action, and property accountability. Detention facility officials questioned the need to seal and retain files for ten years. MBCC should establish policy allowing facility administrators to forward this documentation to probation or parole officers when the juvenile turns 18.

Chapter I - Introduction

Quarterly Allocation of Grant Funding. Currently, MBCC disburses quarterly payments to the five regions based on review of the expenditure reports prepared at the region level. Quarterly allocations could be established up front as part of the application approval process. Regions and counties would know in advance how much the state would be providing and when the funding would be available. In conjunction with regional and county officials, MBCC should review this proposal to simplify the process and reduce paperwork.

Compliance

This audit considered MBCC compliance with statutory detention requirements relating to grant award processing and compliance monitoring. We found MBCC is generally in compliance with state requirements. In addition to efficiency and effectiveness recommendations, in Chapter III we address an area for improvement regarding detention facility compliance monitoring.

Chapter II - Background

Introduction

According to Montana law, detention means holding or temporary placement of a youth in a facility for:

- < Continued custody prior to final disposition of a juvenile case,
- < Contempt of court or violation of a valid court order, or
- < Violation of a juvenile parole agreement.

A youth detention facility is designed to physically restrict youth and to prevent them from departing at will. In this chapter, we provide background information on juvenile detention in Montana.

Federal Standards

The federal Juvenile Justice and Delinquency Prevention Act (JJDP) sets the standard for states to use in establishing juvenile programs including detention. The JJDP Act establishes the basis for juvenile detention addressed in Montana's Youth Court Act (YCA), Title 41, chapter 5, MCA. The four core requirements of the federal criteria are:

- < Deinstitutionalism of status offenders. Status offenses include truancy, runaway, and minor in possession. Status offenders cannot be held in secure detention. If committed by an adult, status offenses would not be crimes.
- < Sight and sound separation. Juveniles cannot be detained in facilities where there would be contact (sight or sound) with adults accused or convicted of any crime.
- < Jail removal. Juveniles generally cannot be detained in a facility used as an adult jail.
- < Disproportionate minority confinement. The proportion of minorities detained should not exceed the proportion represented in the general population.

States are required to develop a system to monitor jails and detention centers to ensure core requirements are met. States are also required to report the results of compliance monitoring to the U.S. Department of Justice.

Chapter II - Background

Montana Board of Crime Control (MBCC) Monitors Compliance

In Montana, MBCC is responsible for monitoring compliance with juvenile detention requirements and reporting compliance to the federal government. The JJDP Act also requires the governor to establish a Youth Justice Council (YJC) to oversee juvenile delinquency and compliance activities. The YJC is responsible for advising the governor and MBCC on juvenile justice issues, including secure detention.

For the latest reporting period, the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), found Montana in compliance with three core requirements. Montana was not in compliance with the disproportionate minority confinement requirement because the number of Native Americans in detention exceeded the proportion in the general population. In response to the minority issue, YJC established the Minority Over-Representation (MOR) Subcommittee. MOR developed a strategic plan to reduce the number of Native Americans detained in secure facilities. OJJDP reviewed Montana's plan in conjunction with reviewing grant applications for the next fiscal year and determined the plan meets the intent of the core requirement.

State Is Eligible for Delinquency Prevention Grants

Detention compliance allows MBCC to apply for federal grants available from OJJDP each year. Compliance with core areas means Montana is eligible for 100 percent of the available grants for fiscal year 2000-01. This equates to approximately \$2.5 million each year. With the exception of one grant category, federal grant funding cannot be used for secure detention or facility operations. The intent of most federal funding is prevention and containment of delinquency offenses and improvement of Montana's juvenile justice system. In addition, federal grants provide for programs which impact the use of detention, such as: (1) increasing the availability of community-based alternatives to incarceration; (2) developing accountability-based programs; and (3) providing for continuing supervision over juvenile offenders.

Chapter II - Background

Montana Counties Responsible for Detention

Section 41-5-1803, MCA, makes counties responsible for providing juvenile detention services separate from adults. Counties may use holdover facilities (nonsecure), short-term secure detention (not to exceed 10 days), or a secure youth detention facility (long-term) to meet detention needs. State law allows counties to contract with private detention service providers, operate their own facility, participate in a regional operation, or contract with another county. Two or more counties may establish a juvenile detention region and operate a regional facility. Statute allows five state detention regions. Contracts between regions and counties outside the region are also allowed.

Counties may issue general obligation bonds for acquisition, purchase, or construction of a detention facility. To pay the county share of the cost of equipping, operating, or maintaining detention facilities, counties may also levy taxes. Statute requires Montana detention facilities to be licensed by the Department of Corrections (DOC).

Seven Licensed Secure Detention Facilities

Currently, there are seven secure juvenile detention facilities licensed and operating in Montana. In addition, DOC received additional requests for a two-bed and a six-bed facility in calendar year 2000.

Cascade County operates a regional facility covering twelve counties in the North Central Region. Blaine County also operates a county facility within this region. Yellowstone County operates a regional facility for twelve counties in the South Central Region. Within these two regions, counties either contract with the regional facility for detention beds or pay when detention is used. Counties outside the regions may also contract with these facilities and/or pay when detention is used.

Neither the Eastern Region (16 counties) nor the Southwestern Region (9 counties) currently operates a detention facility. Counties within these regions may contract with other regional or county facilities for detention and/or pay when a bed is provided. In the Western Region (7 counties), four counties operate independent facilities (Flathead, Lincoln, Missoula, and Ravalli). None of these

Three Options for Administration

Although private facilities have been used in the state in recent years, currently all licensed facilities are under county control. Facility management and operations are a county responsibility and three administrative options are used: (1) county sheriff, (2) district court juvenile probation, or (3) a separate county detention department. The following table shows the administrative option for the seven facilities.

Table 1
Montana Juvenile Detention Facilities

<u>Facility</u>	<u>Administrator</u>	<u>Location</u>
Ted Lechner Youth Services Center	County Department	Billings
Cascade County Regional Youth Services	County Department	Great Falls
Flathead County Juvenile Detention Center	Sheriff	Kalispell
Missoula County Juvenile Detention Center	Sheriff	Missoula
Ravalli County Detention Center	Probation	Hamilton
Lincoln County Juvenile Detention Center	Probation	Troy
Blaine County Juvenile Detention Center	Sheriff	Chinook

Source: Compiled by the Legislative Audit Division from detention facility records.

Operating Costs Vary

We identified operational decisions which create differences in facility costs. For example, ARMs and licensing requirements prescribe minimum staffing levels, requiring two detention staff on duty for one to eight beds. Facilities operating with less than eight beds are required to maintain the same staffing as a facility with eight beds and incur greater staff cost per juvenile detained. Staffing requirements increase in increments of eight beds. Local wage rates/pay scales, as well as staff qualifications and education levels, also impact staffing costs.

Chapter II - Background

By examining fiscal year 1998-99 and 1999-00 detention facility budgets, we found the percentage of facility budgets allocated to staffing varied from 50 percent to about 80 percent. Other examples of operational decisions impacting costs included use of in-house food and/or laundry services versus contracts with local commercial operations. Other services such as counseling or tutoring may vary depending on whether facilities contract or use available community volunteers.

Daily Rate Decision Influenced by Several Factors

Facilities charge a set daily rate or price for juveniles held in detention. We found the cost of operations is the primary factor considered in rate determination. However, there are other factors influencing detention facility daily rates such as:

- < Estimated occupancy rate,
- < Detention “market”, and
- < Available sources of revenue.

Most facilities estimate annual budgets based on occupancy ranging from 75 percent to 90 percent. For facilities operating with less than eight beds, staff costs represent such a high proportion of total costs that occupancy rate estimates have little impact because staff costs are the same regardless of occupancy. For these facilities, occupancy rates have more effect on food service or laundry costs.

Detention Market Influence

We noted the number and availability of other detention facilities and beds in the geographic area can influence the daily rate established by a facility. If a probation officer has a choice of using two facilities about the same distance away, the officer is likely to choose the facility with the lowest rate. This market condition may cause the higher rate facility to lower its rate to become competitive. Lowering rates below cost of operations means the center’s budget authority (county) is willing to support the difference between cost and the daily rate. We noted local governments may do this in order to maintain a facility within their community. We also noted some facilities established different rates depending on where the youth resided. If the youth is not from the county operating the facility, a higher rate may be charged.

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Revenue Options

We noted sources of revenue may also vary between regions. For example, in addition to revenue provided by the state, most counties use local tax money authorized by section 41-5-1804, MCA, to pay their share of the cost of detention. We also found district court probation funding was available to pay for the cost of detention services in some counties. We noted district court funding may be committed up front to ensure detention bed availability for the district involved. Similarly, contracts with federal agencies provide revenue in exchange for guaranteed beds. Federal contracts usually specify a set daily rate which may be higher than the rate paid by county users. Facility administrators also arrange contracts similar to federal contracts with other counties and with Montana's Native American Tribes. Generally, facility officials indicated when guaranteed funding is available, daily rates can be more competitive. The following table shows daily rates for the seven detention centers at the time of our audit.

Table 2
Secure Detention Facility Beds and Daily Rates
Fiscal Year 1999-00

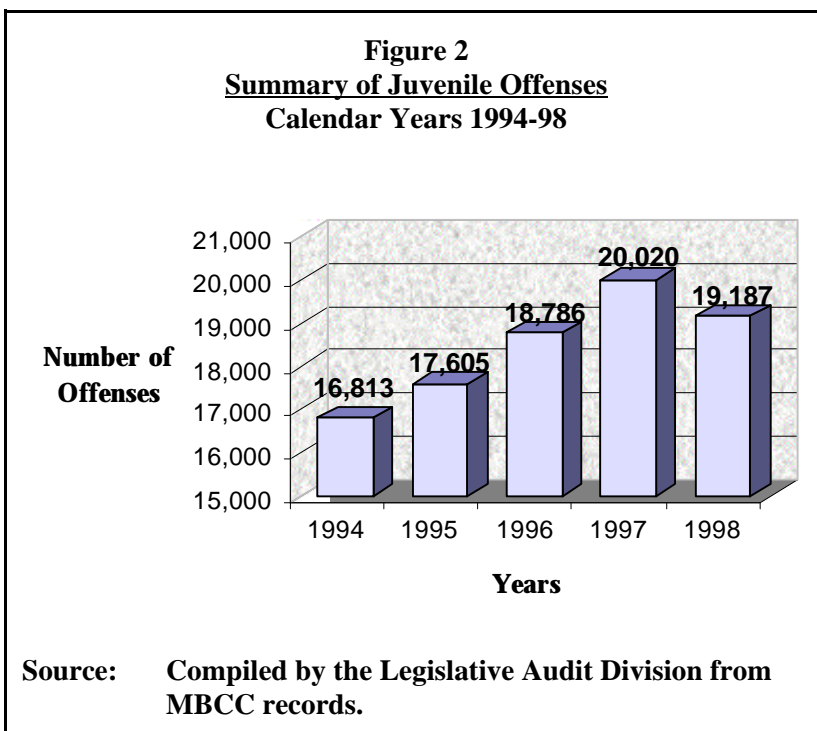
<u>Facility</u>	<u>Beds</u>	<u>Daily Rate</u>
Ted Lechner Youth Services Center	24	\$160
Cascade County Regional Youth Services	16	\$220
Flathead County Juvenile Detention Center	12	\$156
Missoula County Juvenile Detention Center	24	\$140
Ravalli County Detention Center	4	\$150
Lincoln County Juvenile Detention Center	8	\$150
Blaine County Juvenile Detention Center	<u>8</u>	\$195
Total Beds	96	

Source: Compiled by the Legislative Audit Division from detention facility records.

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Juvenile Crime and Detention Usage

MBCC statewide juvenile crime information available from 1994 through 1998 shows a steady increase in offenses through 1997. The 1998 data indicates a slight decrease (four percent) in the number of offenses. According to federal Office of Juvenile Justice and Delinquency Prevention information, the national trend for juvenile crime is down in the mid- to late-1990s. The following figure reflects juvenile crime activity for Montana.



Average Length of Stay Increasing

We discussed the average length of stay of juveniles in detention facilities with district court and detention center officials. We could not establish a consensus of opinion, but we recorded reasons for the general trend towards an increasing length of stay in secure detention. According to officials, juvenile case processing is taking longer because crimes are more serious and because more juveniles are transferred to adult court. Officials suggested more serious crimes are the result of increasing illegal drug offenses. When status offenses or misdemeanors are tied to a drug offense, the result is a

Chapter II - Background

more serious case which takes longer to prosecute. Officials also indicated juveniles are waiting longer in detention while Youth Placement Committees, the Department of Corrections, and the courts determine an appropriate placement. Further, once the placement is decided, juveniles are waiting in detention for an opening in a treatment or correctional facility.

County and court officials indicated length of stay increased because the number of detention beds increased. There is less competition for available beds and youth can be held longer, providing more community security, which was not possible when there were fewer beds. Officials in communities using detention as an immediate consequence or sanction suggested juvenile length of stay is not increasing, and length of stay was directly related to how each community used its facility. With the addition of over 40 beds in fiscal year 1999-00, the impact on length of stay is unknown. Opportunities exist to both increase the number of detained youth and to hold them for longer periods. The following table shows statewide use of detention and reflects average length of stay (number of days) from calendar years 1993 through 1999.

Table 3
Secure Detention Use
Calendar Years 1993-1999

<u>Year</u>	<u>Youth in Detention</u>	<u>Average Length of Stay</u>
1993	566	6.35
1994	753	7.36
1995	1172	8.08
1996	1175	7.84
1997	1122	8.92
1998	1003	9.98
1999	1823	*

*Length of stay data not available for 1999.

Source: Compiled by the Legislative Audit Division from MBCC records.

Chapter II - Background

Use of Detention Is a Local Decision

During our visits to judicial districts and detention centers, we discussed how local authorities use the secure detention option. We found the spectrum of detention use varied widely across the state.

Detention as a Last Course of Action in Some Counties

At one end of the spectrum, some counties view detention as the last course of action. We found juveniles are not placed in detention unless a serious offense (personal injury or significant property damage) is committed. For other less serious offenses, alternatives such as electronic monitoring, home arrest, shelter care, foster care, and/or tracker/mentor programs are used. These alternatives may be used multiple times for additional offenses, or alternatives may be combined and used together. For example, home arrest and electronic monitoring are frequently combined. In some communities, trackers are also employed to check on the juvenile at school and work locations. Detention is not used until other options have been tried and the juvenile continues to offend.

Discussions with local officials about how this type of approach could develop in a community focused on several factors.

- < Availability of a facility impacts detention use. If the closest facility is several hours driving time to/from the community, both cost and impact on staff time reduce the likelihood of detention use.
- < If the closest facility also has limited capacity, and beds are seldom available when needed, detention is less frequently considered an option.
- < The daily rate of the closest facilities also affects the detention decision; the higher the rate, the less frequently detention is considered.
- < In many of the larger communities, the relatively large population of juveniles compared to available detention beds has an impact. With limited beds, the detention decision focuses more on the level of offense committed.

Detention as an Immediate Consequence in Other Counties

At the other end of the spectrum, detention is used early in the juvenile justice process as an immediate consequence for committing an offense. One of the reasons is greater community awareness regarding juvenile crime and more severe consequences are expected. In order to implement this approach, the community has to have access to or operate its own facility. As a result, bed availability and daily rates are seldom issues which impact the detention decision. If the offense is serious (personal injury or significant property damage), detention is still the course of action for public safety. For less serious offenses, detention may be used as the immediate consequence. In most cases, we noted youth are charged with misdemeanor offenses, but not always. In some communities, violation of probation for a status offense, such as minor in possession or runaway, results in detention time.

The Youth Court Act does not allow detention for a status offense. However, section 45-7-309, MCA, permits youth to be detained if cited for criminal contempt for violating probation which could be a result of a status offense. We examined a sample of 100 detention facility juvenile files (out of 1,800 youth detained). Forty-one of these files included criminal contempt for a probation violation. Twenty-two files included a second charge reflecting a misdemeanor or felony offense. The remaining 19 files either reflected a status offense or the file did not provide documentation of a more specific violation.

Detention Files Reflect the Spectrum of Detention Use

During our review of detention facility juvenile files for calendar years 1999 and 2000, we compiled information regarding release of youth from detention facilities. We found 35 percent of the youth in our sample were released to home, parents, or family. For an additional 12 percent, the records indicated release to a juvenile probation officer. This suggests many youth were held as an immediate consequence and/or for a “cooling off” period and returned to their predetention environment, possibly with additional probation conditions. The data sample supports the spectrum of detention use identified during our discussions with youth court and detention facility officials. The following table summarizes release information from our sample.

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Table 4
Juvenile Release From Secure Detention

<u>Release To</u>	<u>Percent</u>
Home/Parents	35
Treatment/Institution	18
Other Detention Facility	18
Shelter Care	15
Probation	12
U.S. Marshal	<u>2</u>
Total	100

Source: Compiled by the Legislative Audit Division from detention facility records.

Summary: Community Use of Detention Varies

We found some districts formally track juvenile activities, including crimes/offenses, court involvement, and detention; others do not. As a result, comparison of the effectiveness of one community's use of detention to another is not possible. In all of our visits, we noted probation officers could justify the approach used by their community. Officers indicated the Montana Youth Court Act provides a degree of flexibility allowing communities to determine how "hard" they want to be on juvenile crime. Secure juvenile detention is one tool allowing flexibility. According to many of the officials we talked with, communities choose to bear the burden of the cost (with state assistance) of a detention facility if it is a tool they decide to employ. The result is secure detention usage varies from community to community.

In summary, we found the use of detention is influenced by several factors across the state:

- < Secure detention facility availability,
- < Cost of detention and transportation,
- < Community awareness and reaction to juvenile crime,
- < Availability of alternatives to secure detention, and
- < Juvenile population.

Legislature Provides Detention Funding Assistance

Title 41, chapter 5, part 19, MCA, addresses the allocation of state General Fund appropriations to assist counties with detention services. This statute was developed during the 1991 Legislative Session. At that time, the legislature included a statement of intent, reflecting the following points:

- < Counties are responsible for providing detention services.
- < State funding is provided for alternatives to secure detention, and to allow for cost sharing to prevent excessive utilization and hold down costs.
- < State funding is provided for nonsecure services at a higher rate to discourage secure detention and promote less costly alternatives.
- < MBCC is responsible for monitoring compliance with state and federal criteria and preparing rules for grant application and allocation.
- < MBCC designates geographical areas to create detention regions.

Grant Application and Award Process

Section 41-5-1902, MCA, directs MBCC to provide grants, within the limits of available funding, to assist counties in establishing and operating detention services including secure and nonsecure. Based on criteria established in statute and ARM, the process used to award grants starts with development of a county detention plan. Plans must reflect the type of detention facilities expected to be used (holdover, short-term, or secure youth detention facility) and project the amount of anticipated use (number of juveniles).

Each year, using consolidated plans, each region develops an operating budget projecting the anticipated costs of detention. MBCC staff provide target allocations reflecting the regional share of available state funding based on the juvenile population in the five regions. Next, regions submit grant applications to MBCC for approval. To qualify for grants, counties must be in compliance with Youth Court Act detention requirements.

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Grants to counties may not exceed 50 percent of the total cost for secure detention, 75 percent for nonsecure detention, and 50 percent for transportation.

MBCC is not involved with allocation of state funding from the regional level to counties; regional boards are responsible for county allocation. Some regions use county juvenile populations; others use a combination of population and detention use history to allocate state funding to counties. Regional factors such as transportation costs may also impact regional allocations to counties.

Quarterly Expenditure Reporting

On a quarterly basis, detention centers are required to submit expenditure data to MBCC. The quarterly report shows detention usage and costs for counties within the region, distinguishing between secure, nonsecure, and transportation costs. Following review of the data, funds are transferred by MBCC to the regions to pay the state share of detention costs for the quarter. This process continues until the region's funding allocation has been used. Staff indicated the Eastern Region is usually the only region which does not use all of their allocation during the year. Other regions typically exceed their allocation. Counties are responsible for all detention costs when the state allocation is no longer available.

Unused funding, such as the remaining Eastern Region allocation, is redistributed to regions exceeding allocations at the end of the fiscal year. The Juvenile Detention Task Force policy is to redistribute to the level where state funding equates to 50 percent of total costs. After that, any remaining funding would be held by MBCC for the next fiscal year. In recent years, all funding has been used before regions reach the 50 percent level.

Region Funding Versus State Share

Based on review of expenditure data for fiscal years 1993-94 through 1999-00, we noted the state share exceeded 50 percent of total costs through fiscal year 1997-98. The General Fund appropriations for grant awards to regions and counties was approximately \$834,000 per year for fiscal years 1997-98 and 1998-99. We found the state share of juvenile detention for fiscal year 1997-98 was 52.2 percent of the total; for fiscal year 1998-99 it was 36.7 percent.

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Based on historical expenditure data and projections compiled by MBCC staff, the 1999 Legislature approved a request for an additional \$300,000 for fiscal years 1999-00 and 2000-01, making the total budget available for cost-share grants \$1,134,942 per year. In 1998-99, local contributions exceeded the state share of the total cost. While the state appropriation increased by \$300,000 for fiscal year 1999-00, as of April 2000, it was projected to cover approximately 38 percent of total detention costs. It appears the percent of the state share remained about the same, because of the use of additional beds established by regions/counties over the past two years. The following table shows state versus local expenditure information for fiscal years 1997-98 through 1999-00.

Table 5
State Versus Local Detention Expenditures
Fiscal Years 1997-98 through 1999-00

<u>Fiscal Year</u>	<u>State Funds</u>	<u>Percent</u>	<u>Local Funds</u>	<u>Percent</u>	<u>Total</u>
1997-98	\$843,711	52.2	\$773,299	47.8	\$1,617,010
1998-99	\$834,935	36.7	\$1,440,099	63.3	\$2,275,034
1999-00	\$1,067,965	38.0	\$1,742,123	62.0	\$2,810,088

Source: Compiled by the Legislative Audit Division from MBCC records.

Percent of Share Varies by Region

Although state funding is allocated based on juvenile population within regions, use of detention facilities varies. As a result, the percent of total cost covered by the state share is not the same for each region. For fiscal year 1999-00, the state share is projected to range from 30.1 percent in the Western Region to 50.7 percent in the Eastern Region. Youth court probation officers indicated when the regional allocation is further allocated to the county level, the percent of total costs covered by the state may be lower. Counties within a region do not use detention in the same way. More usage increases

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total cost and the state share is less. We noted counties where the state share amounted to less than 20 percent of total detention costs.

Conclusion: Legislative Intent Is Met

We determined the intent of the original Montana legislation was to establish a process whereby the state could provide a funding incentive to ensure counties implemented state and federal detention requirements. We conclude the administrative processes and procedures initiated by MBCC and Montana counties ensure implementation of detention requirements.

Chapter III - Process and Management Improvements

Introduction

Juvenile detention standards were implemented in Montana during the early 1990s as a result of federal requirements. The legislature established criteria for ensuring implementation and provided state funding assistance for counties as an incentive to comply with state and federal detention requirements. MBCC used the legislation to develop policies and oversight procedures to ensure implementation. Following ten years of detention activity and operations, our review identified areas for program improvement.

We identified audit findings and developed recommendations in five areas:

- < Expenditure reporting and quarterly disbursement.
- < Verification of compliance monitoring.
- < Nonsecure detention incentive.
- < State funding level determination.
- < Detention management.

These topics are discussed in the following sections.

Expenditure Reporting and Quarterly Disbursement

In Chapter II, we discuss procedures for grant application, review, and award and funding allocation. Quarterly, regions are required to submit a detention expenditure report. The expenditure report shows detention usage and costs from counties within the region and distinguishes between secure, nonsecure, transportation, and electronic monitoring. MBCC staff review expenditure information and transfer funding to regions to cover the authorized state share of detention costs. In this section, we recommend MBCC simplify the expenditure reporting process to reduce workload for county and MBCC staff.

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Expenditure Reports Are Not Consistent and Utility Is Limited

We found reports are not consistent between regions. Some submit more specific expenditure detail describing administrative costs; other regions only submit the number of juveniles held indicating a daily rate to explain costs. From interviews with probation officers and detention facility officials, we determined the consensus was the expenditure report is time-consuming to prepare (12 to 15 pages of documentation). In addition, the report does not provide regions or facilities with information useful for their facility operations or management.

At the MBCC staff level, we found the expenditure reports are also considered time-consuming to review and have limited expenditure monitoring value. Staff indicated expenditure reports update the region/county share of costs, providing MBCC with a picture of total detention costs within regions and statewide. While occasionally identifying a questionable expenditure, staff indicated the report is not designed to identify all inappropriate expenditures. For example, if a youth is detained as part of a disposition order rather than pre-adjudication, use of state funding is not allowed. However, the report does not reflect this type of information. According to staff, the current design of the expenditure report is based on the format required for federal grant funding.

Simplify Expenditure Reporting

Detention grant language requires counties to retain expenditure documentation which can be audited under the local government audit provisions of Montana law. We have observed other programs where state funding is allocated to the county level such as for noxious weeds, and the local government audit provides adequate fiscal control. By relying upon local government audit procedures, other programs significantly reduced expenditure reporting effort and the amount of documentation submitted. We believe MBCC could take advantage of this approach for detention grants. To improve consistency and provide useful information allowing MBCC to track total costs, expenditure reporting should be simplified. A one-page summary would provide MBCC expenditure information on a quarterly basis. This one-page summary should reduce workload for both county officials and MBCC staff. Counties would be

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responsible for maintaining adequate documentation to meet local government audit requirements.

MBCC Concurrs With Recommendation

MBCC officials concur with this recommendation and indicated the level of detail can be reduced.

Recommendation #1

We recommend MBCC simplify grant reporting procedures by developing a summary expenditure document.

Verification of Compliance

Section 41-5-1903, MCA, requires MBCC to review compliance with the Youth Court Act concerning detention of youth. MBCC meets this requirement by reviewing detention compliance reports submitted monthly by facility administrators. The reports reflect information such as: (1) when the youth entered and left the facility, (2) offenses committed, (3) when a probable cause hearing was held, and (4) reason for release. We examined compliance monitoring by comparing facility compliance reports submitted to MBCC to information in juvenile files maintained by detention facility officials. In this section, we recommend MBCC establish guidelines for the detention facilities to ensure supporting documentation is available and conduct facility visits to verify compliance.

24-Hour Hearing Compliance

Our primary focus was on documentation used as the authority for detention of juveniles held over 24 hours. Section 41-5-232, MCA, requires a probable cause hearing within 24 hours to determine whether the juvenile is delinquent or a youth in need of intervention. We found various authorizing documents including:

- < Consent adjustments without petition to the court (informal proceeding) signed by a judge indicating immediate detention if probation conditions were violated.

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- < Hearing court orders (probable cause within 24 hours) signed by a judge and dated by the court, showing the time of day of the hearing.
- < DOC certificates to detain, used for parole youth.
- < Law enforcement arrest and detain orders.

We identified several concerns regarding some of the 24-hour hearing documentation. First, we found court orders dated one to two months prior to the period of detention we examined and appeared to have been initially prepared for a previous detention. Files were not always clear as to whether the youth was released between detentions or if the youth was moved from facility to facility and remained in various detention facilities the entire time. Second, some court orders did not reflect the time of day of the hearing. Since the law requires release if the youth does not receive a hearing within 24 hours, orders which do not reflect a clock time that can be compared to the time the youth entered the facility likely do not show compliance with the hearing requirement. We noted staff at facilities arbitrarily established hearing times reflecting compliance when submitting reports to MBCC.

We also found examples of unsigned 24-hour hearing court orders in youth files. Staff indicated they were aware the hearing was held, but did not receive the final copy of the order. One facility's files included law enforcement arrest and detain warrants used as the documentation for detention. We also identified files without any documentation of a hearing.

Overall, we examined 100 files at random and found 57 with court orders, 7 with consent adjustments, and 4 with DOC certificates to detain parole youth. Thirteen files were for youth released within 24 hours where a hearing was not required. The facilities did not retain documentation of a hearing within 24 hours for 19 files.

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Education Compliance

The Youth Court Act requires juveniles to receive educational instruction if detained for more than nine days. We examined education compliance by identifying documentation regarding the amount of time a certified teacher is in the facility and available to youth for instruction. We also discussed policy with facility staff, noting how they attempt to comply with this requirement. At a couple of facilities, we verified compliance through computerized records. At more than one facility, we identified youth held over 10 days and staff did not maintain documentation of education. At one facility, we noted staff did not document when youth over age 16 had turned down the opportunity for education, which is allowed by law.

MBCC Staff Monitoring Is Limited to Reports

MBCC staff do not routinely visit facilities to verify accuracy of information submitted in monthly reports. Discussion with MBCC officials indicated monthly reports submitted by each detention facility provide the basis for compliance monitoring. Staff compare reported data elements to statutory criteria to identify noncompliance. For example, when a facility reports a probable cause hearing occurred more than 24 hours after the youth was admitted, MBCC staff identify the noncompliance and report their findings to the federal authority as required.

MBCC Should Establish Criteria and Visit Facilities

During our review of file information at the seven facilities, we noted little standardization of documentation between facilities. While similar forms were used and it was evident facilities had shared formats, the type and degree of information varied widely. As noted above, we identified facilities using different types of documents to support the 24-hour hearing requirement. We do not believe facility documentation needs to be identical. Rather, MBCC staff should work with regional, county, and district court officials to define supporting documentation requirements and establish criteria for detention facility officials indicating specific documentation needed to verify compliance with state and federal criteria. Based on this determination of required documentation, the MBCC should assess the need to include documentation requirements in the Youth Court Act to ensure uniformity.

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In addition, MBCC staff should periodically visit facilities to compare reported information to the supporting documentation maintained by staff. Facility visits and review of supporting documentation will help ensure the accuracy of compliance monitoring reports submitted to MBCC and summarized for the U.S. Department of Justice.

MBCC Supports Improving Compliance Monitoring

MBCC officials concur with the need to improve compliance monitoring and verification. However, officials indicated delegation of this responsibility should be considered as part of recommendation #5 (page 33).

Recommendation #2

We recommend MBCC:

- A. Establish criteria for detention facilities regarding documentation to verify compliance with the Montana Youth Court Act.**
- B. Revise statute as necessary.**
- C. Conduct periodic visits to facilities to verify compliance accuracy.**

Nonsecure Detention Incentive

Section 41-5-1904, MCA, allows MBCC to award grants to eligible counties not to exceed 50 percent of estimated costs for secure detention and not to exceed 75 percent for nonsecure detention. The 1991 statute includes a statement of intent: "In order to discourage the use of secure detention and to promote the use of less costly, nonsecure community-based programs, the legislature intends to provide state grants to counties at a higher rate of payment for such services, including holdovers, attendant care, and other alternatives to secure detention."

The MBCC fiscal year 1998-99 grant summary indicates 3.4 percent of detention expenditures were in the nonsecure category. The

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remainder was awarded for secure detention or transportation for secure detention. For fiscal year 1999-00 (July through May), nonsecure expenditures were 2.6 percent of the total. During this period, regions/counties more than doubled the number of secure detention beds in Montana. In this section, we recommend MBCC review the need for retaining nonsecure detention incentives, and/or seek revision of statute as necessary to increase use of nonsecure alternatives, such as holdover facilities, electronic monitoring, and home arrest.

Incentive for Nonsecure Does Not Work

During the audit, we asked MBCC staff and regional detention officials about the incentive to use nonsecure alternatives. While not everyone agreed, we found the consensus was the incentive provided by the difference between 50 percent for secure detention and 75 percent for nonsecure detention was offset by the high cost of secure detention. According to county and court officials, the incentive favors use of secure detention, because 50 percent of a \$150 daily rate is significantly more than 75 percent of a nonsecure option which can be as low as \$6 per day for electronic monitoring. The current statutory incentive for nonsecure detention is not working.

Review Nonsecure Incentives Requirement

MBCC should examine detention facility activity and law to determine the need for a nonsecure incentive. Since this requirement was included in the 1991 law, there has been a significant growth in the use of detention (Table 3, page 13). In addition, more state and federal funding (nondetention) has become available for alternatives to secure detention. Potentially, an incentive for state detention funding in this area may no longer be necessary.

If the conclusion is to retain an incentive for nonsecure detention, then existing criteria should be revised. MBCC should evaluate alternatives such as adjusting the match percent allowed for secure and nonsecure detention. Lowering the match rate for secure detention and raising the match for nonsecure detention could provide more incentive for counties/regions to use nonsecure alternatives. Another option would be to allow regions/counties to retain any unused portion of their allocation of state detention funding at the end

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of the year. Counties might be authorized to use this state funding to establish nonsecure alternatives to detention.

MBCC Concur With Recommendation

MBCC officials concur with this recommendation and propose involving various agencies/groups associated with juvenile detention in Montana in a working group to address evaluating alternatives.

Recommendation #3

We recommend the MBCC:

- A. Review nonsecure detention incentives.**
- B. Propose legislation as necessary regarding state-funded use of nonsecure alternatives.**

Determination of State Funding Levels

One of the topics discussed with state and local detention officials involved the level of state funding compared to the total cost of juvenile detention. This included discussion of the potential for the state to cap the number of detention beds or facilities.

We did not find consensus regarding the state responsibility for juvenile detention costs. Response to questions about limiting the state share of funding generally resulted in discussions concerning the perceived need for the state to “honor” the 50 percent match level addressed in statute for secure detention. These comments stemmed from the early 1990s when juvenile detention was funded with earmarked lottery revenue. During the initial implementation period, there was adequate state funding to ensure a 50 percent cost share. This compares to 38 percent for fiscal year 1999-00 (Table 5 on page 19) using General Fund money.

In this section, we recommend MBCC analyze detention usage and develop proposals regarding state responsibility for the cost of detention.

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Market Determines the Number of Beds

According to law, counties are responsible for detention, and the consensus of local officials was counties should retain flexibility to develop detention capabilities within the framework of the Youth Court Act. County and court officials were in agreement the state should not attempt to cap the number of beds or detention facilities. Further, they suggest that given a predetermined level of state funding, local governments should accept responsibility for any remaining costs if they decide to operate a detention facility. Officials also indicated the “market” for detention causes fluctuation in the number of facilities and beds over time and this should be allowed to occur.

MBCC Tracks and Projects Detention Costs

During the 1999 Legislative Session, MBCC developed historical information on juvenile detention usage and costs to provide a basis for proposing the legislative increase in appropriations. The information covered 1993 through 1998, reflecting the initial growth period for juvenile detention facilities in Montana and the increase in available detention beds. As a result of the growth trend from 1993 through 1998, the MBCC projection for the future indicated a need for more beds and an increase in funding. The legislature increased state funding by 40 percent over the previous biennium. As noted, the state percentage of total detention costs did not change despite the appropriation increase, apparently due to facility and bed growth and associated cost increases.

MBCC Should Analyze Detention Usage

We believe MBCC should expand from the current tracking of historical expenditures to a more proactive role of analyzing statewide detention usage. Analysis should include how detention usage impacts state and local funding and include proposals regarding the state responsibility for sharing detention costs with counties. For example, any future proposal to increase the juvenile detention appropriation should include a discussion of whether the intent is to increase the state share of detention costs or to provide funding to support more use, including expansion of beds and facilities.

In addition, local officials identified other issues relating to funding and facility utilization which could impact the state’s responsibility:

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- < Use of General Fund grants to pay for detention resulting from a court disposition is not allowed by law. However, we found some communities rely on detention as an immediate consequence. Should state funding support detention in those communities?
- < The current process allows grant money to be used for out-of-state detention. Should in-state funding be reduced because a portion of available funding is used for out-of-state facilities?
- < The current process allows grant money to be used at unlicensed facilities. Should state funding for licensed facilities be reduced because a portion of available funding is used for unlicensed facilities?
- < Long-term and short-term secure detention is currently funded at the same rate. Should the grant formula encourage use of short-term detention?
- < The determination to establish a detention facility supporting a region versus a facility supporting a county is currently a local decision. Should the grant formula reward regional services supporting more than one county?
- < Section 41-5-1304(3), MCA, requires the courts to examine the ability of parents to pay for juvenile detention when used as a disposition. Should this requirement be expanded to include other uses of detention and should the grant formula reward counties pursuing parental contribution?

While officials at the state and local levels were aware of these kinds of issues, a process for resolution had not been established. We believe MBCC has the responsibility and authority to review and analyze issues such as these, then provide information and make recommendations to the governor and legislature.

MBCC Supports the Need for Analysis

MBCC officials support the need to examine state detention capabilities to predict cost and assess state responsibilities. However, officials indicated delegation of this responsibility should be considered with recommendation #5 (page 33).

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Recommendation #4

We recommend MBCC analyze detention usage regarding the state's responsibility for sharing juvenile detention costs to provide information for future budget requests.

State Agency Oversight

In 1991, when MBCC was selected to “implement” juvenile detention compliance in Montana and allocate available state and federal funding, planning called for program handoff to the Department of Family Services (DFS) when the state was determined to be substantially in compliance with federal requirements. The 1995 state government reorganization eliminated DFS and moved most juvenile programs to DOC. However, detention activities, with the exception of licensing, were left with MBCC. Since implementation of federal requirements for juvenile detention, there has not been a comprehensive review to decide where and how Montana juvenile detention should be administered.

Two state departments are currently involved in three juvenile detention related activities: allocation of state funding, compliance monitoring, and facility licensing. These activities require compliance with Montana law and/or ARMs. Verification of compliance with detention-related aspects of the Youth Court Act is an administrative function of the MBCC required by section 41-5-1903, MCA. Verification of compliance with licensure requirements is conducted by DOC and required by section 41-5-1803, MCA. In this section, we recommend MBCC evaluate detention oversight alternatives and make recommendations to the governor and legislature regarding whether existing delegation of responsibilities for detention oversight is efficient and effective.

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Concerns About Structure and Delegation of Responsibility

During our audit, we asked detention center and youth court officials and MBCC staff if the current administrative structure provided adequate oversight of juvenile detention. Officials expressed a variety of concerns with the current delegation of responsibilities, ranging from too much control for licensing to not enough control over compliance. Discussions also suggested there are as many concerns associated with leaving the structure alone as there are with changing the structure. One concern related to potential administrative costs if the structure were changed. By using a portion of the state funding for administrative costs, available funding for detention might be reduced.

In our recommendation regarding compliance verification in a previous section of this report, we identified a need for the current oversight agency (MBCC) to visit facilities. Since DOC already conducts visits to review license compliance, there may be efficiencies associated with combining these functions in one organization or coordinating visits.

For compliance monitoring of Youth Court Act requirements, statute indicates the eventual consequence for continued noncompliance is termination of the state grant. Some officials indicated there should be a similar link between state funding and compliance with licensure requirements. However, such a link might jeopardize the assurance of compliance with licensing standards during periods when funding was limited. While we could not determine consensus one way or the other, it was apparent there is general agreement on the need to resolve the issue regarding a link between funding, compliance, and licensure.

MBCC Should Recommend Long-Term Detention Organizational Structure

We believe the juvenile detention implementation phase envisioned in 1991 is over. Based on the concerns expressed during this audit, it is time to resolve the issues encompassing administrative structure and delegation of responsibilities. We believe MBCC should consider alternatives and make recommendations as necessary, because the board is responsible for advising the governor and legislature regarding criminal and juvenile justice issues.

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MBCC Supports the Need for Evaluation

MBCC officials indicated there is a serious need to evaluate government administrative alternatives for juvenile detention. However, because there would be a workload and funding impact, MBCC requires direction from the legislature to work on the project. Further, because this issue impacts counties and district courts, as well as state agencies, MBCC officials recommend review by an interim legislative committee.

Recommendation #5

We recommend MBCC evaluate state administrative alternatives for juvenile detention oversight and propose changes as necessary.

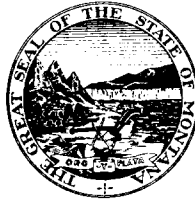
Agency Response

STATE OF MONTANA
DEPARTMENT OF JUSTICE
BOARD OF CRIME CONTROL

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OCT _ 5 2000

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October 3, 2000

Mike Wingard, Performance Audit Manager
Montana Legislature
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P.O. Box 201705
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Dear Mike:

First of all, let me thank you and Tom Cooper for your help over the past several months in examining and discussing concerns related to program activities and effectiveness related to juvenile detention issues. We have enjoyed working with Tom and appreciated his patience and professionalism.

The following is our response to your audit communication dated September 11, 2000 which contained 5 recommendations:

- Recommendation #1: We recommend MBCC simplify grant reporting procedures by developing a summary expenditure document.

Agency Response:

We Concur. The level of detail required on the reports can be reduced considerably. A one page summary report for each of the five regions segregated by the service categories of secure detention, secure detention transportation, non-secure detention, and electronic monitoring would be adequate for purposes of administering the grant. The regional authority and participating counties should be responsible for maintaining the necessary level of detailed records for audit purposes. Based on the Legislative Audit recommendations we have implemented a summary report. [See attachments]

- Recommendation # 2: We Recommend the MBCC:
 - A. Establish guidelines for detention facilities regarding documentation to verify compliance with Montana's Youth Court Act;
 - B. Revise statute as necessary; and
 - C. Conduct periodic visits to facilities to verify compliance accuracy.

Agency Response:

A, B and C. We concur that the guideline and monitoring activities recommended should be strengthened. Board staff responsible for monitoring detention compliance reports intend to refocus priorities in order to conduct more routine on-site compliance monitoring of data that has been submitted by detention center directors.

We would note that the licensing criteria under the ARMS already requires most of the documentation that is mandated in compliance to both state and federal law and that many of the weaknesses identified by this audit should be the responsibility of the Department of Corrections to monitor relative to state law. There is a strong need for simplification and coordination between the Crime Control Division and the Department in this area. We will make every effort to explore better coordination mechanisms in the future.

Finally, we also would like to note that the Board of Crime Control is primarily a grants administration and planning agency. We do not believe that the Crime Control Division is the appropriate agency for enforcement or compliance monitoring in state general fund areas of juvenile detention centers. The administration of juvenile detention center state general funds was never meant to be a permanent responsibility of the Board of Crime Control.

- Recommendation # 3: We recommend the MBCC:
 - A. Review non-secure detention incentives, and
 - B. Propose legislation as necessary regarding state-funded use non-secure alternatives.

Agency Response:

A. and B. We concur. There is a need to seriously re-examine the assumptions behind the current statute, the evolution of juvenile detention practices and federal and state funding priorities. We believe that this re-examination needs to include a wide range of interested persons and

agencies.

- Recommendation # 4: We recommend the MBCC analyze detention usage regarding the state's responsibility for sharing juvenile detention costs to provide information for future budget requests.

Agency Response:

We concur. There is a need to examine state-level capabilities to analyze, monitor and predict juvenile detention costs and usage and to assess the state's responsibilities for cost sharing. See also the response to Potential Recommendation #5.

- Recommendation # 5: We recommend the MBCC evaluate state administrative alternatives for juvenile detention oversight and propose changes as necessary.

Agency Response:

We concur. We believe that there is a serious need to evaluate state government administrative alternatives for juvenile detention.

The Board strongly believes that the Legislature should move the program from the Board to a more appropriate administrative agency in order to achieve better coordination of the program with other state monitoring, funding and licensing activities.

Absent a law change in the 2001 Legislature, the Legislature may want to consider inclusion of a thorough study in this area as part of an interim legislative study that would include legislators, judges, probation officers, state corrections officials and county officials – all of whom would be necessary participants in any discussion of options and alternatives.

Again, thank you for your assistance. Please do not hesitate to contact me if I can provide additional information.

Sincerely,



Jim Oppedahl
Executive Director

Cc: Gary Buchanan, Chairman, Board of Crime Control
Jani McCall, Chair, Youth Justice Council
Rick Day, Director, Department of Corrections